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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/608,548	12/01/2003	Peter Kight	23952-0057	7369

29052 7590 11/16/2006

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EXAMINER

KARMIS, STEFANOS

ART UNIT PAPER NUMBER

3691

DATE MAILED: 11/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/608,548	Applicant(s) KIGHT ET AL.	
	Examiner Stefano Karmis	Art Unit 3691	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 August 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The following communication is in response to Applicant's amendment filed 31 August 2006.

Status of Claims

2. Claims 1, 3, 4, 7, 8, 10, 11, 14, 15, 17 and 18 are currently amended. Claims 1-20 are currently pending.

Response to Arguments

3. Applicant's arguments filed 31 August 2006 have been fully considered but are moot in view of the new grounds of rejection set forth below. Therefore claims 1-20 stand rejected and Applicant's request for allowance is respectfully declined.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

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6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Watson U.S. Patent 5,978,780 in view of Dent et al. (hereinafter Dent) U.S. Patent 6,128,603 in further view of Carlisle et al. (hereinafter Carlisle) U.S. Patent 5,649,118.

Claims 1-20 were previously rejected under 35 U.S.C. 103(a) as being unpatentable over Watson U.S. Patent 5,978,780 in view of Dent et al. (hereinafter Dent) U.S. Patent 6,128,603 as stated in the office action mailed 09 February 2006.

Applicant has amended claims 1, 8 and 15 to specify that the debit type selection is not made by the first payor or the first biller. Carlisle teaches a smart card with multiple charge accounts (Abstract). Carlisle teaches that the multiple accounts include accounts such as Visa, MasterCard, Discover as well as savings and/or checking accounts obtained through banks, savings & loans and credit unions (column 21, lines 47-56). Carlisle teaches that a particular account is used in a debit transaction wherein the account is selected not by a first payor or a first biller (column 20, line 64 thru column 21, line 20 and column 23, lines 41-58). Carlisle fails to specify that the debit type selection is based on risk. However, Carlisle does teach choosing the account having the highest balance. It would have been obvious to one of ordinary skill in the

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art at the time of the Applicant's invention to modify the risk teachings of Watson in view of Dent to include the debit type teachings of Carlisle because it allows for the payment of bills or products while considering account balances. Both Watson and Dent also determine the most appropriate debit types based on analyzing a consumer's account information. Watson teaches selecting a debit type based on a determined risk. Watson first teaches that that instructions for debit specify whether to use electronic debit or credit/charge card debit (column 4, lines 55-65). Further, Watson teaches that the personal settlements exchange contains a payment reserve and credit enhancement feature, which backstops the liquidity of the system, and ensures the payments are made on a timely manner and in full amount to each service establishment (column 21, lines 7-21). Similarly, Dent mentions that there are risks with conventional bill payment (column 1, lines 34-46). Dent teaches a cashflow analyzer that suggests charging certain amounts to credit cards in order to avoid late payments (column 10, lines 1-14). Carlisle uses similar analysis (debt priority analysis) by debiting the accounts based on account balance in order to avoid insufficient funds.

Therefore independent claims 1, 8 and 15 stand rejected. Dependent claims 2-7, 9-14 and 16-20 stand rejected under Watson in view of Dent in further view of Carlisle for reasons stated in the previous office action.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stefano Karmis whose telephone number is (571) 272-6744. The examiner can normally be reached on M-F: 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alex Kalinowski can be reached on (571) 272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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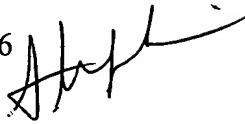
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Respectfully Submitted

Stefano Karmis

13 November 2006



HANI M. KAZIMI
PRIMARY EXAMINER